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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/897,657 | 06/29/2001 | Debra A. Timm | JOHNA.061A | 9725 |

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EXAMINER

MICHENER, JENNIFER KOLB

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1762

DATE MAILED: 05/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/897,657

Applicant(s)

TIMM ET AL.

Examiner

Jennifer Kolb Michener

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-5, 7-9, 11 and 13-18 is/are rejected.
- 7) ☒ Claim(s) 6, 10 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 3/25/2003 has been entered.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 3/25/2003 has been considered by the examiner.

Applicant's submission of the IDS has prompted the following new rejections:

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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4. Claims 1-5, 7, 11, 13-18 are rejected under 35 U.S.C. 102(a) as being anticipated by Gesche et al. DE 199 44 631 A1 (based on English language Abstract and oral translation).

Regarding claims 1-5, 11, 13, and 16-18 Gesche et al. teach a method of using microwave plasma to simultaneously coat and sterilize a material (abstract, lines 1, 2, 8, 12). Gesche teaches that his invention is particularly advantageous because of his combination of surface modification and sterilization (col. 1). The reactive species of Gesche's plasma are graft-polymerized onto the substrates (col. 4, line 1). Graft polymerization meets Applicant's limitation of polymerizing a polymerizable chemical. The plasma gas of Gesche contains hydrogen peroxide (col. 3, lines 63 and 65). It is said that the high concentration of plasma gas, bombardment of the substrate therewith, and the plasma energy used bring about sterilization (col. 1).

The coating of Gesche is "bio-active". Claims 11 and 13 of the instant application state that Applicant's bio-active coating may be a "biocompatible coating" or a "hydrophobic coating". In column 4, Gesche teaches the use of Teflon as a coating, which is biocompatible, and teaches the rendering of the substrate material hydrophobic, both of which qualify as "bio-active".

Because Gesche teaches that the method of his invention is low temperature and suitable for use with non-thermally stable plastics (abstract), his method would not significantly impact the bio-activity of the coating.

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Regarding claim 7, in addition to plastic substrates, Gesche teaches the coating and sterilization of glass substrate materials.

Regarding claims 14 and 15, the coating of Gesche is graft polymerized onto the substrate material and therefore must inherently comprise a monomer or pre-polymer prior to grafting. Teflon (col. 4, line 9) is PTFE, as required by Applicant.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gesche et al.

Gesche et al. teach that which is disclosed above.

Further Gesche teaches that the method of his invention may be used to coat plastic beverage bottles (translation). Gesche does not specifically teach the bottle materials of claims 8 and 9.

However, it is Examiner's position that it is well-known in the beverage bottling industry to use polyethylene terephthalate (PET) beverage bottles, sometimes with a fluoroelastomer to aid in reducing diffusion of the contents outward from the bottle.

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PET is a type of polyethylene as is required by claim 8 and the fluoroelastomer meets the limitation of claim 9.

It would have been obvious to one of ordinary skill in the art using the teachings of Gesche for coating/sterilizing plastic beverage bottles to use a commonly known PET bottle as the substrate.

Allowable Subject Matter

7. Claims 6, 10, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Kolb Michener whose telephone number is 703-306-5462. The examiner can normally be reached on Monday through Thursday and alternate Fridays.

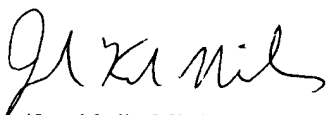
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on 703-308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in cursive script, appearing to read "J. Kolb Michener".

Jennifer Kolb Michener
Patent Examiner
Technology Center 1700
May 2, 2003